

REMARKS

Claims 1-25 are pending in the application. In an Office Action mailed February 1, 2005, Claims 23, 24, and 25 were objected to for containing certain informalities therein. Claims 1-7, 9-20, and 22-25 were rejected under 35 U.S.C. § 102(b) and Claims 8 and 21 were rejected under 35 U.S.C. § 103(a).

Claims 1, 6, 10, 16, 21, 23, and 24 have been amended as indicated above to clarify the invention. Claims 5, 9, 13-15, 17-20, 22, and 25 have been canceled and Claims 26 and 27 have been added by way of this amendment. In view of the foregoing amendments and remarks that follow, applicant respectfully submits that the application is now in condition for allowance.

Objection of Claims 23, 24, and 25

Claims 23, 24, and 25 have been rejected for containing certain informalities. Although applicant respectfully disagrees that these claims contain any informalities, applicant has amended Claims 23 and 24 as requested to expedite the allowance of the claims. Claim 25 has been canceled by way of this amendment and response, therefore the objection to Claim 25 is now moot.

35 U.S.C. § 102(b) Rejection of Claims 1-7, 9-20, and 22-25

Claims 1-7, 9-20, and 22-25 were rejected under 35 U.S.C. § 102(b) in the Office Action as being anticipated by U.S. Patent No. 1,593,935 issued to Gerick et al. (hereinafter "Gerick"). Applicant respectfully disagrees.

It is a well-settled axiom of patent law that in order to anticipate a claim, a reference must teach each and every element of that claim. Each and every element of a claim must either be expressly or inherently described in a prior art reference.<sup>1</sup> Thus, if every element of the claim is not described or suggested by the reference, the claim cannot be rejected under

<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

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35 U.S.C. § 102(b) as being anticipated by the prior art. Further, the elements described or suggested in the reference must be arranged as required by the claim, although the terminology need not be identical.<sup>2</sup>

Applicant submits that Gerick fails to describe or suggest each and every element of the foregoing claims. Thus, applicant respectfully submits that the rejection of Claims 1-7, 9-20, and 22-25 under 35 U.S.C. § 102(b) is improper. More specifically, Claim 1 recites and Claim 10 similarly recites "a blade portion coupled to the handle portion for partially receiving the blade, wherein the blade portion includes a channel having a forward end, a rear end, and a middle portion extending between the forward and rear ends, wherein a height of the middle portion is less than a height of the forward end and a height of the rear end such that when the knife is placed in the knife guard with the cutting edge exposed, the forward and rear ends of the channel extend above the cutting edge and the middle portion is disposed below the cutting edge to expose at least a portion of the cutting edge." Applicant respectfully notes that Gerick fails to teach or suggest at least these elements.

More specifically, in stark contrast to applicant's claimed embodiment, Gerick teaches a channel for receiving a blade which continuously decreases in height aft of the tip of the cutting edge. Thus, if the knife guard of Gerick were to receive a knife with the cutting edge facing upward, although Gerick fails to teach or suggest receiving the knife in this matter, the entire portion of the cutting edge aft of the tip of the cutting edge would be exposed since the channel for receiving the blade continuously decreases in height aft of the tip of the cutting blade. Accordingly, Gerick fails to teach or suggest each and every element of the claimed embodiment recited in Claims 1 and 10. Therefore, applicant respectfully submits that the rejection of

<sup>2</sup> *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

Claims 1 and 10 and those claims which depend thereon under 35 U.S.C. § 102(b) is improper, and respectfully requests that the rejections be withdrawn.

Rejections Under 35 U.S.C. § 103(a)

Claims 8 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gerick in view of U.S. Patent No. 4,707,920, issued to Montgomery (hereinafter "Montgomery"). Applicant respectfully disagrees.

As is well known, the Office Action bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). For the same reasons discussed above for the rejections of Claims 1 and 10 under 35 U.S.C. § 102(b), applicant asserts that Gerick fails to teach or suggest "a blade portion coupled to the handle portion for partially receiving the blade, wherein the blade portion includes a channel having a forward end, a rear end, and a middle portion extending between the forward and rear ends, wherein a height of the middle portion is less than a height of the forward end and a height of the rear end such that when the knife is placed in the knife guard with the cutting edge exposed, the forward and rear ends of the channel extend above the cutting edge and the middle portion is disposed below the cutting edge to expose at least a portion of the cutting edge" as recited in Claim 1 and similarly recited in Claim 10. Montgomery also fails to teach or suggest at least these same elements. Accordingly, applicant submits that neither Gerick, nor Montgomery, individually or in combination, teach or suggest all the claim limitations of Claims 1 and 10. Accordingly, applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of Claims 8 and 21, which depend from allowable Claims 1 and 10, be withdrawn, for at least this reason.

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New Claims 26 and 27

New Claims 26 and 27 have been added to further point out and distinctly claim the novel aspects of the claimed embodiments of the present invention. Applicant submits that the prior art, alone or in combination, does not teach or suggest applicant's claimed embodiments of the present invention as recited in Claims 26 and 27. Therefore, applicant submits that new Claims 26 and 27 are allowable over the prior art.

CONCLUSION

In view of the foregoing amendments and remarks, applicant respectfully submits that the present application is in condition for allowance. Reconsideration and reexamination of the application, as amended, and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicant's undersigned attorney at the number below.

Respectfully submitted,

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